IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE P.N.RAVINDRAN

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

OP.No. 34447 of 2001(S)

PETITIONERS:
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1. C.RAJESH, AGED 32 YEARS, S/O.C.RAMACHANDRAN, CASUAL LABOURER, PASSPORT OFFICE, KOZHIKODE, RESIDING AT 'CHIRAKKAL HOUSE' , EDACHERI MEETHAL PARAMPA, CHEVARAMBALAM P.O., KOZHIKODE – 673 017.

2. ANOOP BABU K., AGED 32 YEARS, S/O.SAHADEVAN, CASUAL LABOURER, PASSPORT OFFICE, KOZHIKODE, RESIDING AT 'SANGEETH' II/599, ERANHIPALAM, KOZHIKODE – 673 006.

3. K.P.BINDU, AGED 31 YEARS, W/O.SURESH, CASUAL LABOURER, PASSPORT OFFICE, KOZHIKODE, RESIDING AT 'SHANTHI' NEAR MUTTAPPANKAVU, KOZHIKODE – 673 006.

4. SHEEJA T., AGED 31 YEARS, D/O.C.RAMAN, CASUAL LABOURER, PASSPORT OFFICE, KOZHIKODE, RESIDING AT 'NARAYANA VIHAR', EDAKKAD, WEST HILL, KOZHIKODE – 673 005.

5. VIJY V., AGED 30 YEARS, D/O.GOPALAN, CASUAL LABOURER, PASSPORT OFFICE, KOZHIKODE, RESIDING AT 'AMBAZHAPURATH HOUSE', P.O.MANKAVU, KOZHIKODE – 673 007.

BY ADV. SRI.M.A.SHAFIK

RESPONDENTS:
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1. UNION OF INDIA REPRESENTED BY SECRETARY TO THE GOVERNMENT OF INDIA, MINISTRY OF EXTERNAL AFFAIRS, NEW DELHI.

2. THE CHIEF PASSPORT OFFICER & JOINT SECRETARY (CPV), MINISTRY OF EXTERNAL AFFAIRS, NEW DELHI.

3. THE PASSPORT OFFICER, PASSPORT OFFICE, KOZHIKODE.

4. THE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH.

BY ADV. SRI.P.PARAMESWARAN NAIR, ASSISTANT SG

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 18/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP NO.34447/2001

APPENDIX

PETITIONERS' EXTS.

EXT.P1 - TRUE COPY OF THE CALL LETTER NO.1(16)AD/Kzd/91 (PART III)/(25) DATED 1.12.92 ISSUED TO THE 1ST PETITIONER.

EXT.P2 - TRUE COPY OF THE ORDER NO.1(35)/AD/KZD/93 DATED 6.12.93 ISSUED BY THE IIIRD RESPONDENT.

EXT.P3 - TRUE COPY OF THE OM NO.51016/2/90=ESTT (C) DATED 10.9.93 ISSUED BY THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES & PENSIONS.

EXT.P4 - TRUE COPY OF THE ORDER NO.1 (35) AD/KZD/93 DATED 4.10.99 OF THE IIIRD RESPONDENT.

EXT.P5 - TRUE COPY OF THE LETTER NO.VIV/851/1/98 DATED 21.1.2000 OF THE IIND RESPONDENT.

EXT.P6 - TRUE COPY OF THE REPRESENTATION DATED 24.11.99 SUBMITTED BEFORE THE IIND RESPONDENT.

EXT.P7 - TRUE COPY OF THE REPLY STATEMENT DATED 16.10.2000 SUBMITTED BEFORE THE IVTH RESPONDENT.

EXT.P8 - TRUE COPY OF THE RELEVANT EXTRACT OF THE SENIORITY LIST OF THE CASUAL LABOURERS OF THE PASSPORT OFFICES IN KERALA PREPARED AS PER DIRECTIONS IN ORIGINAL APPLICATION 2233/93.

EXT.P9 - TRUE COPY OF THE ORDER DATED IN ORIGINAL APPLICATION 54/97 OF THE CAT.

EXT.P10 - TRUE COPY OF THE ORDER DATED 27.9.2001 IN ORIGINAL APPLICATION 451/2000 OF THE CAT.

EXT.P11 - TRUE COPY OF THE PAPER REPORTS APPEARED IN VARIOUS DAILIES.

EXT.P12 - PHOTOSTAT COPY OF THE CIRCULAR NO.V.IV/579/1/2003 DATED 16.8..2005 ISSUED ON BEHALF OF THE IIND RESPONDENT.

EXT.P13 - PHOTOSTAT COPY OF THE APPLICATION FORM SUBMITTED BY THE IIND PETITIONER ON 19.8.2005.

RESPONDENTS' EXTS. NIL

/TRUE COPY/

K.BALAKRISHNAN NAIR &

P.N.RAVINDRAN, JJ.

O.P. NO. 34447 OF 2001-S

Dated 18th December, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioners were applicants 1 to 5 in O.A.No.451/2000 on the files of the Central Administrative Tribunal, Ernakulam Bench. They were casual employees engaged in the Passport Office at Kozhikode. They claimed temporary status, relying on a scheme notified by the Central Government on 1.9.1993. Their claim was rejected by the Tribunal. Hence this Original Petition.

2. The brief facts of the case are the following: The petitioners were recruited through the Employment Exchange as casual labourers in 1992-93. The 1st petitioner was engaged from 7.12.1992 to March, 1994. The 2nd petitioner was engaged from 1.1.1993 to 6.12.1993. The petitioners 3 to 5 were engaged from 7.12.1992 to 6.12.1993. Thereafter, they were retrenched. Again, they were re-engaged between September and November in 1999. They were terminated from service on 2.3.2000.

3. The Government of India issued Ext.P3 scheme as a one-time measure to grant temporary status to casual labourers and for their regularization. The petitioners rely on appendix 4(i) to Ext.P3, which reads as follows:

> "i. Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this O.M and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week)."

The petitioners claim that they are entitled to get the benefit of the above said clause. On 1.1.1993 all of them were in service and they have completed 206 days' service soon after the said date. Since the official respondents did not consider them eligible for temporary status, notwithstanding their representations, they approached the Tribunal. Their claim in this regard was resisted by the respondents, contending that the scheme is applicable only to those persons who were in service as on 1.9.1993 and also have completed 206 days' service on the said date. According to the petitioners, in view of Ext.P9 order of the C.A.T., they can complete 206 days even after 1.9.1993 and claim the benefit of temporary status, provided they were in service on the said date. The said claim of the petitioners was upheld by the C.A.T. But, relief was granted only to the 6th

applicant in Ext.P10, on the ground that applicants 1 to 5 therein have not rendered 206 days' service within a period of one year. But, the petitioners rely on Ext.P8 seniority list to show that they have completed more than 206 days' service as on 6.12.1993. They have completed 249, 235, 259, 246 and 233 days respectively. Going by their claim, the petitioners have completed 206 days of service within one calendar year. If that be so, they are also entitled to get the benefit granted to the 6th applicant in Ext.P10 order. In other words, the direction in para 27(v) of the said order will govern the petitioners herein also. Para 27(v) reads as follows:

> "(v) I direct the second respondent to consider the case of the sixth applicant in O.A.451/2000 for conferment of temporary status under the scheme dated 10.9.93 on the basis of the factual position as to whether she had worked for 206 days in a period of one year prior to 10.9.93 or between 10.9.93 and 6.12.93. If on consideration by the second respondent sixth applicant is conferred with temporary status, she shall be reinstated with all consequential benefits at par with her junior the second applicant in OA 134/2001."

The Original Petition is disposed of, directing the 2nd respondent to extend the benefit of the above quoted para to the petitioners herein also.

K.BALAKRISHNAN NAIR, JUDGE.

P.N.RAVINDRAN, JUDGE.

Nm/

K.BALAKRISHNAN NAIR &

P.N.RAVINDRAN, JJ.

O.P. NO.34447/2001-S

JUDGMENT

18.12.2007.